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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/649,115	08/27/2003	John R. Martin	15161US02	5502
23446	7590	08/25/2004	EXAMINER	
MCANDREWS HELD & MALLOY, LTD 500 WEST MADISON STREET SUITE 3400 CHICAGO, IL 60661			HARRISON, JESSICA	
			ART UNIT	PAPER NUMBER
			3714	

DATE MAILED: 08/25/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/649,115	Applicant(s) MARTIN, JOHN R.	
	Examiner Jessica J. Harrison	Art Unit 3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 2 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This application claims priority to application serial no. 08/771,052, now abandoned. It is noted that the power of attorney was changed near the end of prosecution in the parent file to that which corresponds to the present file's correspondence address. However, this continuation application was filed with a copy of the original declaration which appointed the power to the original attorneys. Presently office records indicate a power of attorney as listed on the oath/declaration and a correspondence address as listed on the request for continuation. It is recommended that applicant's response include an appropriate power of attorney to the instant file so that appropriate correspondence may be held. It is also noted that the examiner received a telephone request for an interview prior to first action from an attorney who is not listed as possessing power in the instant file. Processing time constraints prevented the examiner from accommodating this request. However, although no amendments have been made in the application, (other than an attempt to renumber claims 14 and 20 as claims 1 and 2, when the application was filed with only claims 1 and 2 present), the examiner, as a courtesy, has not made this office action final so that applicant may have opportunity to advance prosecution in the application. Applicant is welcomed to submit a request for interview prior to preparation of a response to this office action which substantially repeats the prior application's final rejection.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as being anticipated by Tanaka 5,266,931.

Tanaka relates to a method/apparatus for inputting data utilizing a touch screen upon which buttons are displayed. A plurality of buttons are displayed on the screen, with visually defined boundaries (see Fig. 4). An enlarged sensitive area for each button is defined (see Fig. 5). The enlarged area is activated and the first areas are highlighted when a touch is sensed and remains touching the area. A button selection is registered if a “pen up” signal is registered within the second enlarged area. And following the flow diagram of Figure 2, it is clear that if a touch is sensed and then moved outside the boundaries of the enlarged area, the highlighting will reverse and the new touch area will become highlighted and register if the “pen up” signal is then registered. A button press is not registered in Tanaka until the pen is raised up. If the pen moves while remaining down, the loops in the Tanaka flow diagram make it clear that the selected areas are highlighted, subsequently unhighlighted, and new area highlights. While this possibility may not be

clearly discussed in the text of the patent, it is clearly encompassed by the flow diagram illustrated. Clearly the enlarged second area will accommodate any unwanted movement of the device with respect to the user.

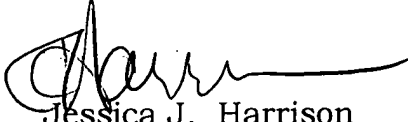
Response to Arguments

No new arguments have been presented with the preliminary amendment. It is urged that applicant review the examiner's prior response to argument sections in the prosecution history, as the examiner's position and further clarification of the examiner's read of Tanaka's teachings are clearly delineated therein.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jessica J. Harrison whose telephone number is 703-308-2217. The examiner can normally be reached on M-F during business hours.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derris Banks can be reached on 703-308-1745. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Jessica J. Harrison
Primary Examiner
Art Unit 3714

jjh